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December 6, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MM Docket No. 98-120
Ex Parte Notice

Dear Ms. Roman Salas:

The Association of America's Public Television Stations ("APTS") hereby notifies the Commission of the following ex parte meetings in the above-captioned proceeding regarding digital must carry. The meetings occurred on November 30, 1999, and were attended by Lonna Thompson and Marilyn Mohrman-Gillis, APTS, Greg Ferenbach, PBS, and Kathleen Cox, CPB. We met with the following persons:

Commissioner Gloria Tristani
Rick Chessen, Senior Legal Advisor
Aisha Braveboy, Intern

Commissioner Susan Ness
David Goodfriend, Legal Advisor

Marsha McBride, Legal Advisor
Clint Odom, Legal Advisor (Detail)

Thomas Power, Legal Advisor

Commissioner Harold Furchtgott-Roth
Helgi Walker, Legal Advisor

We discussed the position of APTS set forth in its filing in the DTV must carry proceeding, and the information contained in the following attachments.

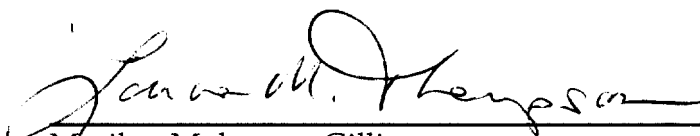
For Mr. Odom rec'd
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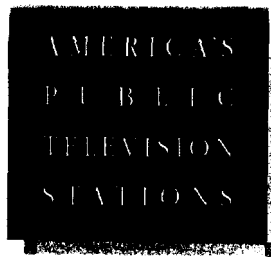
Should any questions arise concerning this matter, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lonna Thompson", written over a horizontal line.

Marilyn Mohrman-Gillis
Vice President, Policy and Legal Affairs
Lonna Thompson
Director, Legal Affairs
Association of America's Public Television Stations

cc: Commissioner Gloria Tristani
Rick Chessen, Senior Legal Advisor
Aisha Braveboy, Intern
Commissioner Susan Ness
David Goodfriend, Legal Advisor
Marsha McBride, Legal Advisor
Clint Odom, Legal Advisor (Detail)
Thomas Power, Legal Advisor
Commissioner Harold Furchtgott-Roth
Helgi Walker, Legal Advisor



PUBLIC TELEVISION'S NEED FOR DIGITAL CABLE CARRIAGE

Digital cable carriage rules are essential to enable public access to noncommercial educational digital services.

- Cable systems are monopolies, from which nearly 70 percent of American viewers exclusively get their television service. NCTA has said that cable companies will not carry public television's digital broadcasts during the transition unless forced to by the FCC.
- NCTA claims that the FCC can rely on voluntary retransmission consent agreements between broadcasters and cable companies. Public television stations are not included in the retransmission consent provision of the cable act; must carry is the only option for public stations.
- Congress intended that the FCC adopt rules to ensure DTV cable carriage during the transition in recognition that broadcasters would be in need of carriage of their new, developing digital services.

Carriage of the digital signal with the analog signal during the transition period will not create an undue burden on cable systems.

- There is plenty of capacity due to cable system upgrades, compression techniques, and the gradual rollout of digital broadcasting.
- Cable MSOs are aggressively upgrading their systems to 750 and 550 MHz systems, providing an abundant amount of capacity in the digital tier. Current compression technology will allow cable systems to pass two to three digital terrestrial broadcast channels through one digital cable channel.
- Any alleged lack of capacity is attributable solely to the business decisions cable companies will make. Without a guaranteed place for noncommercial educational services, allocation of digital capacity will be based solely on the for-profit motive to maximize penetration of digital set top boxes and subscribers to the digital tier.
- Cable companies can employ unused public, educational and governmental channels to carry digital signals.
- Real hardship cases could be addressed through an exemption or waiver process.

COLORADO PUBLIC TELEVISION
KBDI/12
Denver, Colorado

THE DIGITAL FUTURE

Strategic Plan, 2000-2003.
(Staff and Board SWOT analysis, 1998-99)

Summary

Principal Strengths & Opportunities

Creative staff, board
Tradition of vigorous expression,
serving under-represented
Collaborations & partnerships
Expanded signal, multi-media
capacity
New funding sources

Principal Weaknesses & Threats

Small capital base, reserves
Light equipment infrastructure
Small staff; modest benefits,
training
Lack of carriage beyond Metro area
Funding bipolarity (membership-
federal)

Key Objectives

• *Adequate Facilities, Equipment*

Core digital capacity (production, transmission, joint master control)
Expanded, up-to-date space, equipment
Maintenance and amortization

• *Increased Amounts and Improved Programming and Services*

More, higher quality local production
More, better national acquisition
Strengthened diversity
Multi-media, interactive services

• *Enhanced Staff and Board*

Competitive staff compensation, benefits, continuing education
Revised job descriptions, matching skills and needs
Larger board, broader base

• *Increased Revenue Base*

Broader balance among sources (address bipolarity)
New services, collaborations, partnerships

Implications for Must Carry

The Polychromatic Promise for Colorado

Digital capacity can enhance diversity of services (see Mission Statement)
Diversity means airing, provision of multiple voices, sharing of experiences
Provides more opportunity for broader, richer community discourse
Permits KBDI/12 to consolidate position, acceptance among funders of its
unique role in Colorado media culture

New Channel and Program Stream Plans

- *Legislative and political news service*

Continuous, in-depth coverage of state, county and local governments
Digital, integrated multi-media newsroom: Capitol Hill news bureau

Partners: Commercial broadcasters, newspapers, universities, public and
government access services

- *Latino channel*

Public service television for Spanish-speaking, bilingual community:
emphasis on news, public affairs, social and cultural events

Partners: Local community service organizations; schools; commercial
Spanish-language broadcasters; public agencies

- *Local, regional cultural events, productions*

Community drama, music, arts events, festivals; live and co-production

Partners: local theater, arts and music groups; universities; state and
municipal agencies

- *Outdoors, wilderness and environmental affairs*

Coverage of regional environmental, outdoors experience and issues

Partners: Public and private environmental, wilderness agencies;
foundations; independent producers

Special Notes

1. *Colorado Public Television, KBDI/12, is a tenant and member of the Five Points Media Center.*

The FPMC is a unique public service telecommunications entity whose mission is to provide facilities and programs for community telecommunications agencies and to train minorities and women for the telecommunications industries.

2. *Other tenant/members include KUVO-FM, public radio, and DCTV, public access television for Denver.*

The strength of the FPMC project depends to a great degree on the health of each of its member organizations – "all boats rise."

A measure of that health includes the capacity of the programming and services of the Center and its members to be received widely and easily in Denver and throughout the state of Colorado.

3. *In April 1999, FCC Chairman, William Kennard, was given a lifetime achievement award by the FPMC.*

While in Denver for the award dinner and festivities Chairman Kennard visited the Center and KBDI/12.

In his acceptance speech and on subsequent occasions he spoke highly of the Center and its community oriented programs, noting their special role in the U.S.

Mission Statement

Colorado Public Television (KBDI/12) is a multi-media, public telecommunications service for the Colorado Front Range and beyond. As part of the PBS family, it seeks to inform, educate and entertain with a wide variety of innovative, high-quality programming and related services. It also has a special commitment to address social issues and public concerns that are not otherwise adequately covered in the community.

Colorado Public Television strives to enrich and strengthen the culture of the state and region. Its services are intended to reach out to, challenge and engage all those it touches. It understands its viewers and members to be first and foremost inquisitive and discerning citizens seeking to join with it in building a community of civil discourse.

Colorado Public Television fulfills this mission by:

- Providing services to under-represented interests and access to diverse and opposing viewpoints
- Exercising and supporting freedom of expression and independence from political and commercial forces
- Promoting considered deliberation and vigorous debate
- Encouraging experimentation, creativity, new ideas and high standards in all aspects of its work
- Exercising responsible stewardship of its human, fiscal and other resources
- Working cooperatively and in partnership with other organizations and interests that share its goals in the community

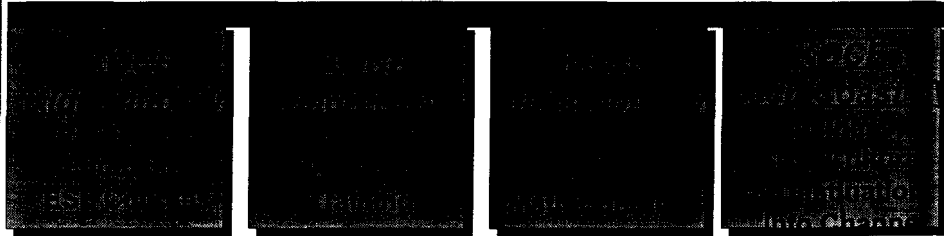


ORANGE COUNTY EDUCATIONAL TELEVISION

KOCE's call letters are the acronym for Orange County Education. For over 25 years, KOCE has stayed true to its educational mandate in the purest sense and is committed to continue being an innovator for educational broadcasts. The following are examples of the unique mission of KOCE in Southern California.

- KOCE "invented" the high quality college telecourse. Long before the existence of the PBS Adult Learning Service, **KOCE's Coast Telecourses** were the first to go beyond simply having a professor lecture into a camera.
- Each week, the **KOCE Classroom** provides 17.5 hours of K-12 instruction reaching more than one million California elementary and secondary students, including over 400,000 students in Orange County. In addition to matching teachers' curriculum needs with quality programs, the KOCE Classroom regularly sends its Educational Telecommunications Services staff to schools to deliver workshops on better ways for teachers to use television to teach key concepts.
- **KOCE's Degree TV** provides 30 hours of college telecourses each week in cooperation with Coastline Community College.
- KOCE is the California host for the **National Teacher Training Institute** which annually provides two days of workshops on using media, computers, the Internet, and other technologies as educational aids. KOCE staff conduct many of the sessions.
- KOCE is the Los Angeles TV market sponsor for **Tech Trek**, a hands-on summer program teaching young "at risk" women about careers in technical fields and provides television production training and internships for participants.
- Responding to the needs of Orange County residents whose issues and events are ignored by the Los Angeles news media, KOCE has launched **Real Orange**, the only nightly broadcast news and public affairs show for and about Orange County.
- KOCE recently launched **Hear & Now**, a 24-hour-per-day reading service for the print-impaired. Hear & Now uses professionals and community volunteers to read newspapers, novels and magazines to the thousands of Southern Californians with sight problems, severe dyslexia, and other challenges which make it difficult for them to read. Hear & Now is a free service presented on KOCE's SAP (Secondary Audio Program) channel.

Digital KOCE Daytime



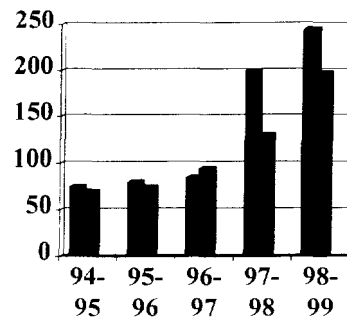
Digital KOCE Prime-Time



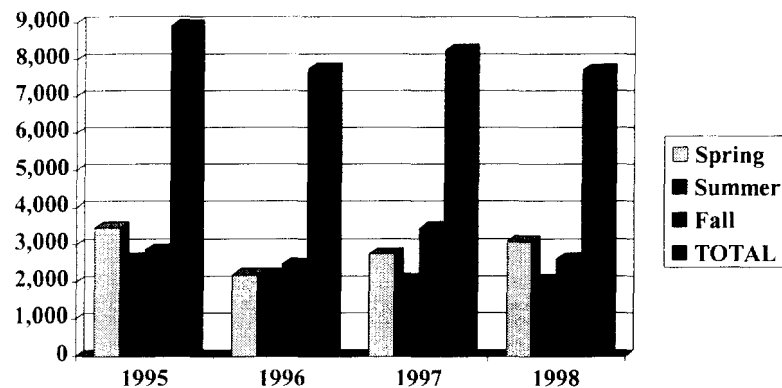
KOCE Classroom Participation

- Red bar is numbers of K-12 students participating on a regular basis.
- Blue bar is dollars from contracts with schools and school districts.

KOCE Classroom in Thousands



KOCE/COASTLINE FOR-CREDIT TELECOURSE ENROLLMENT





In an unpretentious television studio hidden in Huntington Beach, a little bit of magic happens each weeknight as the cast and crew of *Real Orange* produce and deliver to TV viewers in Southern California a live newscast focused on the events and people of Orange County. This month, *Real Orange* enters its third year of production.

What started as a "happy fun morning show at night" first broadcast on September 1, 1997, has developed into a reliable source for concise, clear news coverage. For many Orange County residents, *Real Orange* is the TV newscast they turn to for local news.

As many as 1,400,000 viewers tune in to *Real Orange* each month. According to the Nielsen ratings, one out of every 20 homes using television in the greater Los Angeles media market tune in for some portion of the 7 p.m. live show, or its repeat broadcast at 10:30 p.m. "It seems we've discovered a niche in this highly saturated media market by doing something nobody else was doing: broadcasting quality in-depth local news about Orange County," says executive producer Ed Miskevich, who is also Director of Production at KOCE.

Real Orange is the brainchild of KOCE President Mel Rogers. Rogers conceptualized the idea for the show shortly after he arrived in Orange County in 1997, and took over the reins of the 17th most watched public television station in America. "I was looking for something that would give KOCE a presence on the air and in the community," said Rogers. "It also had to show our commitment to the community and to encapsulate our vision and mission of quality television that informs, educates and entertains."



Producer Mike Taylor (l) and Floor Manager Roger Genereux (r) run through the evening's broadcast with *Real Orange* hosts Peter Murphy and Ann Pulice.

Under those tall orders, *Real Orange* was born. But while the show's purpose has remained the same, its format has changed.

"The show has become much more analytical and thought-provoking than I think anyone ever expected," said series producer Mike Taylor. He attributes the changes to comments from viewers.

"People, even staff, would come up to us and say you ought to cover the closure of El Toro, or what's happening in Bolsa Chica," added associate producer Susan Tripp.

They began producing more hard-hitting stories and covering politics, business, the arts and community issues like gang violence.

And there is more in store. Rogers is working to expand the show's coverage of local events and to offer more critical discussion on key Orange County issues. "Local non-profits and other worthy causes need a visible forum to raise their profile with local citizens," said Rogers.

Continued and increased funding is critical for the series' growth. The current \$400,000 annual budget for *Real Orange*

pales in comparison to the multimillion-dollar budgets of other local networks. The station relies heavily on corporate funding and support of the series, which is produced in association with *The Los Angeles Times-Orange County Edition*.

When asked to note the accomplishments of the past two years, Taylor is quick to answer. "What we're most proud of is our ability to spotlight the amazing, and newsworthy, efforts of individuals and groups that wouldn't otherwise get media attention." Rogers credits the efforts of his staff. "In true PBS fashion," notes Rogers, "they continue to deliver amazing stories under tight deadlines and the tightest of budgets."

Real Orange is produced by public television station KOCE. Ed Miskevich, executive producer; Peter Murphy, managing editor and host; Ann Pulice, associate managing editor and host; Mike Taylor, producer; Susan Tripp, associate producer; Maria Hall Brown, associate producer; Jennifer Davis, reporter; Shelly Guthrie, assistant producer and camera operator; Greg Brenner, director.

***Real Orange* airs weeknights at 7 and 10:30 pm.**

Real Orange is Made Possible By:

The Times Mirror Foundation, Edison International, NextLink California, Ernst & Young LLP and the Transportation Corridors Agency

Weeknights 7 & 10:30 pm

(Check local cable listing)

**real
orange**

**News
For & About
Orange County**



Hosts Peter Murphy & Ann Pulice

koce
expand your mind

www.koce.org

Produced by KOCE-TV, a public television station licensed to the University of California, Irvine. KOCE-TV is supported by the Times Mirror Foundation.
Editors International and English. KOCE-TV is a member of the National Public Television Association. KOCE-TV is a member of the National Association of Public Television Stations.
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December koce

HIGHLIGHTS

Contact: Judith Schaefer @ 714.895.5623
www.koce.org



Magical Century of Christmas

Santa uses a magical time machine to travel through yesteryear in song and dance, with help from the talented youngsters of the Orange County High School of the Arts. Taped live at Fashion Island. **Airs: Thu., 12/23 at 7:30 pm; Fri., 12/24 at 4:30 pm and Sat., 12/25 at 1:30 and 5 pm.**

Montenegro Mending, Russia Rising

Shows how influential Orange County entrepreneurs are helping restore peace and prosperity to a former Yugoslav Republic and to the people of Moscow and Russia. **Airs: Mon., 12/20 at 9:30 pm, Tue., 12/28 at 7 & 10:30 pm.**

Burn the Floor

Combines the chic, the elegant, the glamorous and the gritty in this not-to-be-missed explosion of dazzling ballroom choreography. **Airs: Thu., 12/2 at 7:30 pm; Sun., 12/5 at 5 pm and Mon., 12/6 at 9:30 pm.** Also don't miss Ballroom Fever: Live at the Imperial Palace in Vienna. **Airs: Fri. 12/10 at 7:30 pm.**

Omnibus: Television's Golden Age

Alistair Cooke reminisces about his role as host of the acclaimed television series "Omnibus" which ran on network television from 1952 to 1961. **Airs: Mon., 12/6 at 7:30 pm and Sun., 12/12 at 9 pm.**

The Leading Ladies

Julie Andrews hosts this Great Performances special that gathers illustrious leading ladies who perform their signature hits and personal favorites from Broadway musicals. Guests include Nell Carter, Linda Eder, Lisa Minnelli and Rosie O'Donnell. **Airs: Fri., 12/10 at 9:30 pm and Thu., 12/16 at 7:30 pm.**

The Internet for Grown-ups

Offers digital hand-holding for newbies and those who need help maximizing their computer and Internet connections. John R. Levine, co-author of the best seller *Internet for Dummies* hosts. **Airs: Sat., 12/4 at 5 pm and Mon., 12/6 at 11:30 pm.**

Andrea Bocelli: Sacred Arias

The tenor lifts his voice to inspirational heights in a **Great Performances** holiday concert at a Roman basilica on the Piazza della Minerva, featuring a selection of carols and sacred arias. **Airs: Saturday, 11/11 at 6:30 and 9:05 pm. Repeats 12/14 & 17.**

Merry Christmas George Bailey

Based on a Lux Radio script originally performed in 1947, this program is a tribute to the 50th anniversary of the beloved holiday film, *It's A Wonderful Life*, and its star, Jimmy Stewart. Bill Pullman and Nathan Lane star. **Airs: Sunday, 12/19 at 9 pm and Friday, 12/24 at 9:30 pm.**

Just One Night.

Tells the story of one night in the life of Tom Boyle. After work and on the verge of making a multi-million dollar deal, Tom goes out for a few drinks. His next memory is of a state trooper telling him he just plowed head first into a snowplow at 100 miles per hour, killing the passenger in his car. **Airs: Thu., 12/30 at 9:30 pm.**

Taste of Chanukah

Broadway and film star Theodore Bikel hosts this celebration of the rich cultural and musical traditions of the Jewish feast. **Airs: Thu., 12/9 at 7:30 pm.**



Montenegro Mending, Russia Rising



Burn the Floor



Omnibus: Television's Golden Age



The Leading Ladies



The Internet for Grown-ups



Andrea Bocelli: Sacred Arias



Merry Christmas George Bailey



Taste of Chanukah



PUBLIC TV's DIGITAL CABLE FUTURE...

The Increase in Cable Coverage

There is a beauty in the public television system. Free. Over-the-air. Commercial free. Trusted. Educational. But the reality is that the number of people receiving their television signal exclusively through cable continues to grow. Therefore, without continued (and required) cable carriage, public television may become less available to the very people it purports to serve.

There is an inherent value in public TV that shapes this entire discussion. Despite all the new cable networks, public TV (and WYBE in particular), still provides a unique, commercial-free service. The mission is different, the goals are different, and the methods for achieving them are different than in commercial broadcasting and in the cable industry. There is a value in preserving this incredible national treasure. There is also a value in preserving it as the local voice that it is.

The Philadelphia Landscape

In Philadelphia there are two public television stations. WHYY and WYBE. Together, these two stations provide an extensive variety of public television programming. WHYY provides the nationally known PBS favorites. But it is WYBE that provides the distinct voice for the alternative and underserved communities in the Greater Philadelphia region. Without "must carry", cable systems will most certainly feel the need to carry only one public TV station per market. And, as with most singular choices in life, the big guy wins out. To the cable operator, carriage of the single largest public TV station is the surest way for them to satisfy the largest number of typical public TV viewers. The only problem is, WYBE's audience is anything but typical. Taken as separate entities, these underserved communities may appear modest. But taken together, and with the most up-to-date census information, a pattern appears. These underserved communities are the shape of the world today—not the shape of things to come. Here. Now. Particularly in large, urban areas. Without the diversity of WYBE, these communities are barely served; and certainly not in any committed, mission-oriented manner.

A Brief WYBE History

WYBE received its FCC license in 1982 after a small group of local activists fought to create a station in the historical definition of "public television". The station went on the air in June 1990, starting with just four hours a night. Today, the station broadcasts 18 hours daily, seven days a week, with a service unlike any station in the entire country! WYBE (a community licensee through Independence Public Media of Philadelphia, Inc.) is totally independent; the station is not connected with a University, nor it is a PBS affiliate. WYBE strives every day to serve the diverse and multi-cultural communities in the Greater Philadelphia region. In fact, it is the only public TV station licensed to the Philadelphia market. The station's much larger (but locally located) neighbor, WHYY, is technically licensed to Delaware.

WYBE's mission is to strengthen the sense of shared community among individuals of diverse backgrounds and cultures by providing a public communications connection.

The Fallacy in the Overlap Argument

Markets in which more than one public TV station exist are typically referred to as "overlap" markets. But why? Look to the communities where overlap stations exist and ask; do they overlap geographically? Or programmatically? Geography is a weak argument for sole service coverage. It's the *people* that make a community, not the square mileage they cover. As long as the station is providing a unique programming service, the moniker "overlap" is inappropriate.

Without WYBE...

Without WYBE there would be no programming available for the Korean community, the Vietnamese community, the Armenian community, the Greek, Polish, Irish, Indian, Caribbean, French and Gay/Lesbian community. And in Philadelphia, several of these communities are in the top five in size across the country. In fact, the only place with a greater concentration of French-owned companies in the world is France! The Philadelphia Gay/Lesbian Film Festival is the largest in the country. The Asian community is in the top five in the country in size. And yet, not a single other broadcaster in town devotes air time to these communities in a consistent, ongoing basis. (WYBE received the Pan Asian Community Service award this past year for its devotion to Asian programming.) WYBE's commitment is so strong, the station has started producing an original program titled, *Philly Live*, providing five nights a week of live, call-in programming targeted to these specific communities. (i.e. Multi-cultural Monday's, Health Tuesdays, Latino Wednesday's, African-American Thursday's, Gay/Lesbian Thursday's, Community Friday's.)

Why the Need

Why is WYBE convinced that there is a need for "must carry"? Past history. Throughout its existence, the station has had to be vigilant with the cable systems to be carried even in the closest cable systems. Several have even been taken to court to assure their compliance with current FCC "must carry" rules. Just last week in a discussion with one of the largest cable operators in the country, the station had to fight to convince the operator of the value of carriage, the inherent audience in their subscribers, and the strength of its signal. Is this because the operator thinks their viewers don't have an interest in the station's programming? Possibly. But it is more likely that they'd just prefer to carry a cable network that will pay them for carriage. Or one in which they can place advertising. This is not an issue of programming variety. If it was, WYBE would be carried in an instant. Nor is it an issue of serving their audience better. If it was, WYBE would still be carried in an instant. This is an issue of money. It is the FCC's "must carry" regulation that enables WYBE to walk into a cable operator's office and stand tall asking for carriage.

Without "must carry", without WYBE on cable, especially in the digital age, the country will further separate into the "haves" from the "have not's".

Cable carriage is one of the first questions asked by funders and underwriters. They watch TV personally. And they all have cable. It is critical that any station interested in receiving funding from these sources, be available to the people making the decisions.

Further, the NCTA has already stated that it will not carry public TV's digital broadcast unless forced to do so by the FCC.

WYBE's Digital Future

WYBE is currently in a capital campaign to fund its transition to Digital Television. This is a tremendous hurdle for a small station. The cost for transition is the same no matter the station size. Replacement of antennae's, transmitters and towers are daunting costs. But WYBE is committed to making the transition. State funding, local corporate funding and individual grants and (hopefully) federal funding will make it possible. But once completed, what a service WYBE will be poised to offer. The current programming schedule is already being shaped to spin off several multi-cast channels; enabling the station to better serve its underserved communities. One channel will be devoted to programming for multi-cultural communities. One for local, city-oriented issues, arts and culture. One for educational program needs unique to diverse minority communities; GED, ESL, etc. And several other possibilities are still being explored. WYBE's digital future will be as unique and diverse as its current services. WYBE will not be duplicating the enhanced services provided by WHYH or any other broadcaster, public or commercial.

Must Carry vs. Retransmission Consent

Public television is not included in the retransmission consent rules, despite the fact that NCTA wants any "must carry" to fall in this area and be negotiated on an individual basis. Nothing can replace the strength of the "must carry" rules. The FCC "must carry" designation does not fight the battle; it merely opens the door to discussion. Without the designation, it's tough to even get on the battlefield. "Must carry" rules are the power behind every discussion between a public television station and its local cable operators.

Closing

In no other business would a CEO raise millions of dollars and then invest it in infrastructure and services without any guarantee of getting the service to its customer. With the FCC's assistance, public television can take its vision of a digital future, an accessible, educational future for all Americans, and make it accessible to an ever widening audience. The promise of a public television digital future is here. The FCC can pave the way.

Sherri Hope Culver
General Manager
WYBE Public Television
11/30/99